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7 DONALD LEE REYNOLDS,
8 Plaintiff,
9 v.
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11 CAROLYN W. COLVIN,
12 Defendant.

Case No. [13-cv-02074-JST](#)

**ORDER GRANTING MOTION TO
STRIKE AND ORDER TO SHOW
CAUSE**

Re: ECF No. 24

12 In this appeal of the Social Security Commissioner's denial of disability benefits, Plaintiff
13 Reynolds was required by Civil Local Rule 16-5 to file a motion for summary judgment within 28
14 days of the date Defendant Colvin filed an answer. See Civil L.R. 16-5. Colvin filed an answer
15 on October 21, 2013. ECF No. 16. Accordingly, Reynolds was required to file an answer by
16 November 18, 2013, but he failed to do so. On November 20, 2013, two days after his motion for
17 summary judgment was due, Reynolds filed a request for a 60-day extension, but the Court denied
18 the request the next day. ECF No. 19.

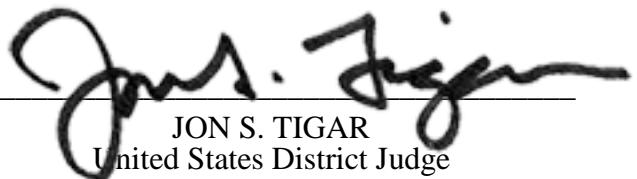
19 In lieu of filing a motion for summary judgment, Reynolds recently filed a declaration and
20 exhibits, the purpose of which is unclear. ECF Nos. 20, 23. Colvin moves to strike these exhibits
21 and declarations under Rule 12(f) on the ground that they are "immaterial." The motion to strike
22 is GRANTED.

23 Reynolds is ordered to show cause in writing on or before December 27, 2013, why this
24 action should not be dismissed for failure to prosecute under Federal Rule of Civil Procedure
25 41(b). See *Espinoza v. Astrue*, Case No. 07-cv-3115 VRW, 2008 WL 820582, at *1 (N.D. Cal.
26 Mar. 26, 2008) (holding that, in a social security appeal, a "[p]laintiff's failure to file a motion for
27 summary judgment may warrant dismissal for failure to prosecute pursuant to FRCP 41(b)").
28 Alternatively, Reynolds shall file a motion for summary judgment on or before December 27,

1 2013. If Reynolds files this motion, Colvin may file an opposition no later than 28 days after the
2 motion is filed, and Reynolds may file a reply no later than 14 days after an opposition is filed.

3 **IT IS SO ORDERED.**

4 Dated: December 20, 2013

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6 JON S. TIGAR
7 United States District Judge

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United States District Court
Northern District of California